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4 UNITED STATES DISTRICT COURT
5 WESTERN DISTRICT OF WASHINGTON
6 AT TACOMA

7 SOEUN SUN,

8 Plaintiff,

9 v.

10 FIFE POLICE DEPARTMENT,

11 Defendant.

CASE NO. 17-5309 RJB-DWC

ORDER ADOPTING REPORT AND
RECOMMENDATION

12 This case comes before the Court on the Report and Recommendation of U.S. Magistrate
13 Judge David W. Christel (Dkt. 17), Plaintiff's Affidavit to Stay the Case (Dkt. 18), and
14 Plaintiff's Motion for Voluntary Dismissal (Dkt. 24). The Court has considered the Report and
15 Recommendation, the affidavit, and pleadings filed regarding the motion, and remaining file.

16 This civil rights case was filed by Plaintiff, a *pro se* prisoner, who is proceeding *in forma*
17 *pauperis*. On August 15, 2017, the Report and Recommendation was filed, recommending that
18 the case be dismissed without prejudice after having given Plaintiff several opportunities to file a
19 complaint which states a claim. Dkt. 17. The Report and Recommendation recommends that the
20 dismissal count as a strike under 28 U.S.C. § 1915A. *Id.*

21 On August 25, 2017, Plaintiff filed his Affidavit to Stay the Case (Dkt. 18) asserting that
22 he was scheduled to be released from custody on September 5, 2017, and wanted the case stayed
23 until then. The Court construed this pleading as a motion for extension of time to file objections,
24 and renoted the Report and Recommendation to September 15, 2017. Dkt. 19.

1 On September 11, 2017, Plaintiff filed his Motion for Voluntary Dismissal, in which he
2 moves for dismissal of the case without prejudice. Dkt. 24.

3 Plaintiff's Motion for Voluntary Dismissal (Dkt. 24) should be granted and the Report
4 and Recommendation (Dkt. 17) should be adopted, in part, and the case dismissed. Due to
5 Plaintiff's voluntary dismissal of the action, the undersigned should decline to adopt the Report
6 and Recommendation's (Dkt. 17) recommendation that the dismissal count as a strike under
7 1915A. Plaintiff's Affidavit to Stay the Case (Dkt. 18) should be stricken as moot.

8 It is **ORDERED** that:

- 9 • Plaintiff's Motion for Voluntary Dismissal (Dkt. 24) **IS GRANTED**;
- 10 • The Report and Recommendation (Dkt. 17) **IS ADOPTED** as to the dismissal of
11 the case without prejudice, and **IS NOT ADOPTED** as to the dismissal counting
12 as a strike under 1915A; and
- 13 • This **CASE IS DISMISSED WITHOUT PREJUDICE**; and
- 14 • Plaintiff's Affidavit to Stay the Case (Dkt. 18) **IS STRICKEN AS MOOT**.

15 The Clerk is directed to send uncertified copies of this Order to Judge Christel, all
16 counsel of record, and to any party appearing pro se at said party's last known address.

17 Dated this 18th day of September, 2017.

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20 ROBERT J. BRYAN
21 United States District Judge
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